

House File 581 - Introduced

HOUSE FILE 581

BY BENNETT

A BILL FOR

1 An Act relating to the rights of sexual assault survivors, and
2 making appropriations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I
SURVIVOR RIGHTS

1
2
3 Section 1. Section 709.10, Code 2019, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 3. The department of public safety shall
6 develop a kit tracking system as provided in section 915A.10.

7 Sec. 2. NEW SECTION. 915A.1 **Applicability — survivors of**
8 **sexual assault.**

9 In addition to the rights under chapter 915, the rights
10 enumerated in this chapter shall apply to a survivor of sexual
11 assault.

12 Sec. 3. NEW SECTION. 915A.2 **Definitions.**

13 For the purposes of this chapter, unless the context
14 otherwise requires:

15 1. "*Counselor*" means a victim counselor as defined in
16 section 915.20A, or a victim advocate working for a provider of
17 services designated under section 236.15.

18 2. "*Kit*" means a sexual assault forensic evidence kit
19 containing a human biological specimen collected from an
20 alleged sexual assault survivor by a medical provider during a
21 medical evidentiary examination.

22 3. "*Laboratory*" means the state criminalistics laboratory
23 established in chapter 691.

24 4. "*Medical evidentiary examination*" means a medical
25 evidentiary examination or physical examination to collect
26 sexual assault forensic evidence.

27 5. "*Medical provider*" means a health care professional,
28 hospital, or emergency medical facility.

29 6. "*Officer*" means a law enforcement officer, including
30 peace officers and sheriffs and their regular deputies, or any
31 person employed by a private police agency at an educational
32 institution.

33 7. "*Rapid turnaround DNA program*" is a program adopted by a
34 law enforcement agency, medical provider, and laboratory for
35 the training of sexual assault team personnel in the selection

1 of representative samples of forensic evidence from an alleged
2 survivor to be the best evidence based on a medical evaluation
3 and patient history, the collection and preservation of that
4 evidence, and the transfer of the evidence directly from the
5 medical provider to the laboratory.

6 8. "*Sexual assault*" means sexual abuse as defined in section
7 709.1 or incest as defined in section 726.2, or any other
8 sexual offense by which a victim has allegedly had sufficient
9 contact with an alleged offender to be deemed a significant
10 exposure, as defined in section 915.40.

11 9. "*Survivor*" means an alleged victim of a sexual assault.
12 "*Survivor*" includes the parent, guardian, spouse, or any other
13 person related to the survivor by consanguinity or affinity to
14 the second degree, or any other lawful representative of the
15 survivor if the survivor is incompetent or deceased; unless
16 such person is the alleged perpetrator.

17 Sec. 4. NEW SECTION. 915A.3 **Survivor rights — attachment.**

18 1. The rights provided to a survivor in this chapter attach
19 when a survivor consents to receive a medical evidentiary
20 examination, or when a survivor consents to an interview about
21 a sexual assault with an officer, county attorney, or defense
22 attorney.

23 2. Once attached pursuant to subsection 1, a survivor
24 shall retain all the rights provided pursuant to this chapter
25 regardless of whether the survivor agrees to continue to
26 participate in the criminal justice system.

27 Sec. 5. NEW SECTION. 915A.4 **Survivor rights.**

28 1. A survivor has the right to be reasonably protected from
29 the alleged perpetrator and persons acting on behalf of the
30 alleged perpetrator.

31 2. A survivor has the right to be free from intimidation,
32 harassment, and abuse. During the course of any judicial
33 proceeding, the court shall make reasonable efforts to provide
34 the survivor and the survivor's family members, friends, and
35 witnesses with a secure waiting area or room that is separate

1 from the waiting area for the defendant and the defendant's
2 family members, friends, witnesses, and attorneys, and separate
3 from the county attorney's office.

4 3. A survivor has the right to be treated with fairness
5 and respect for the survivor's privacy and dignity. During
6 the course of a judicial proceeding, the court shall, upon the
7 request of the survivor, clear the courtroom of all persons
8 when the survivor is testifying regarding the case in any
9 civil or criminal trial, except that parties to the case and
10 their immediate families or guardians, attorneys and their
11 secretaries, officers of the court, jurors, members of the
12 media, court reporters, and, at the request of the survivor,
13 witnesses designated by the county attorney may remain in the
14 courtroom.

15 4. As provided under section 915.44, a survivor shall not be
16 required to submit to a polygraph examination as a prerequisite
17 to filing an accusatory pleading, or to participating in any
18 part of the criminal justice system.

19 5. A survivor has the right to be heard through a victim
20 impact statement pursuant to section 915.21, at any proceeding
21 involving a postarrest release decision, plea, sentencing,
22 postconviction release decision, or any other proceeding
23 where a right of the survivor is at issue, and the right to
24 provide a sentencing recommendation to the person conducting a
25 presentence investigation.

26 6. Upon request of a survivor, a law enforcement agency
27 shall inform the survivor of the status of analyzing the kit
28 evidence or other crime scene evidence from the survivor's
29 case. The law enforcement agency may, at its discretion,
30 require that the survivor's request be in writing. The law
31 enforcement agency shall respond to the survivor's request with
32 either an oral or written communication, or by electronic mail,
33 if an electronic mail address is available. This subsection
34 does not require that the law enforcement agency communicate
35 with the survivor regarding the status of analyzing the kit

1 absent a specific request from the survivor.

2 Sec. 6. NEW SECTION. 915A.5 Right to a counselor.

3 1. A survivor has the right to consult with a counselor
4 during any medical evidentiary examination, or during any
5 interview with an officer, county attorney, or defense
6 attorney. A survivor retains this right even if the survivor
7 has waived the right in a previous examination or interview.

8 2. Communications between a survivor and a counselor are
9 confidential and privileged, including information disclosed
10 in the presence of any third person conducting a medical
11 evidentiary examination or a law enforcement interview.

12 3. The presence of a counselor does not negate any existing
13 privilege otherwise guaranteed by law.

14 4. A survivor's waiver of the right to a counselor is
15 privileged.

16 5. A survivor retains the right to have a counselor present
17 during all stages of any medical examination, investigation,
18 or other interaction with a representative from the legal or
19 criminal justice system.

20 Sec. 7. NEW SECTION. 915A.6 Survivor notification document.

21 The department of justice shall develop a survivor
22 notification document to be distributed by an officer or a
23 medical provider upon the officer's or provider's initial
24 contact with a survivor. The survivor notification document
25 shall be in clear language that is comprehensible to a person
26 proficient in English at the fifth grade level, be accessible
27 to persons with visual disabilities, and be available in all
28 major languages of the state. The document shall include but
29 shall not be limited to:

30 1. A clear statement that a survivor is not required to
31 participate in the criminal justice system, participate in
32 an interview with an officer, county attorney, or defense
33 attorney, or receive a medical evidentiary examination.
34 However, the rights of a survivor attach when the survivor
35 consents to participate in such an interview or consents to a

1 medical evidentiary examination.

2 2. Telephone and internet contact information for nearby
3 rape crisis centers and counselors.

4 3. The forms of law enforcement protection available to the
5 survivor, including a temporary no-contact order or protective
6 order, and the process to obtain such orders under chapter
7 664A.

8 4. Instructions for requesting the results of any analysis
9 of the forensic evidence obtained from the survivor.

10 5. Information about state and federal compensation funds
11 available for medical or other costs associated with the
12 case, and information on any municipal, state, or federal
13 right to restitution for survivors in the event of a criminal
14 proceeding.

15 Sec. 8. NEW SECTION. 915A.7 Officer or county attorney
16 interaction with a survivor.

17 1. Before commencing an interview with a survivor, an
18 officer or county attorney shall inform the survivor of the
19 following rights:

20 a. To receive a survivor notification document if the
21 survivor has not already received a survivor notification
22 document or does not remember receiving a survivor notification
23 document.

24 b. To consult with a counselor during any interview by
25 an officer, county attorney, or defense attorney unless no
26 counselor can be summoned in a reasonably timely manner.

27 c. To be interviewed by an officer or county attorney of the
28 same gender or opposite gender as the survivor, unless no such
29 officer or county attorney is reasonably available.

30 2. An officer shall, upon written request by a survivor,
31 furnish a free, complete, and unaltered copy of all law
32 enforcement reports concerning the case, at the time the
33 investigation has been closed by the law enforcement agency.

34 Sec. 9. NEW SECTION. 915A.8 Initial interaction by a
35 medical provider.

1 1. A medical provider shall not charge a survivor for
2 the cost of the medical evidentiary examination portion of a
3 medical examination either directly or indirectly.

4 2. A medical provider shall provide contraception to a
5 female survivor, if the survivor so chooses, within four hours
6 of the medical examination, and at no cost to the survivor.

7 3. Prior to a medical provider commencing a medical
8 evidentiary examination of a survivor, the survivor shall be
9 informed of the survivor's rights under this chapter. The
10 survivor shall be entitled to the following:

11 a. To receive a survivor notification document.

12 b. To consult with a counselor, summoned by a medical
13 provider before the commencement of the medical evidentiary
14 examination, unless a counselor is unable to be summoned in a
15 reasonably timely manner.

16 c. To know the ramifications of delaying the medical
17 evidentiary examination if a counselor is unable to be summoned
18 in a timely manner.

19 d. To shower, at no cost, unless showering facilities are
20 not available after the medical evidentiary examination.

21 4. A support person may be excluded from a medical
22 evidentiary examination if the officer or medical provider
23 determines that the presence of that individual would be
24 detrimental to the purpose of the examination.

25 Sec. 10. NEW SECTION. 915A.9 **Collecting sexual assault**
26 **forensic evidence — creation of kit — requirements.**

27 A medical provider shall, upon conducting a medical
28 evidentiary examination, collect sexual assault forensic
29 evidence for placement in a kit.

30 1. The kit shall be delivered to the law enforcement agency
31 believed to have jurisdiction over the sexual assault within
32 twenty-four hours of collecting any sexual assault forensic
33 evidence.

34 2. The law enforcement agency with jurisdiction over the
35 sexual assault shall deliver the kit to the laboratory as

1 soon as possible or within five days of receiving the kit,
2 unless the survivor requests in writing for the laboratory to
3 defer analysis of the evidence. If a law enforcement agency
4 determines that it does not have jurisdiction, it shall notify
5 the law enforcement agency having proper jurisdiction of that
6 fact after taking possession of the kit. The law enforcement
7 agency having proper jurisdiction shall take possession of the
8 kit from the other law enforcement agency and submit the kit
9 to the laboratory as soon as possible or within five days of
10 taking possession of the kit.

11 3. The laboratory shall retain the kit for a minimum of ten
12 years before it is destroyed, or until the survivor reaches
13 twenty-eight years of age if the survivor was a minor when the
14 sexual assault occurred.

15 4. The survivor may request that the laboratory analyze the
16 kit at any later date before the expiration of the retention
17 period described in subsection 3.

18 5. A law enforcement agency shall not initiate any criminal
19 investigation unless the survivor gives written consent to file
20 a criminal complaint.

21 6. A laboratory that receives the kit shall analyze that
22 evidence and upload any available DNA profiles into the federal
23 combined DNA index system, unless the survivor has requested in
24 writing that the laboratory defer analysis of that evidence.

25 7. If a law enforcement agency or laboratory intends to
26 destroy or otherwise dispose of the kit, the law enforcement
27 agency shall notify the survivor in writing prior to such
28 destruction or disposal of the intended date of destruction,
29 the reasons for the decision, and the options that remain
30 available for retention and analysis, if any.

31 8. The survivor has the right to be informed, upon the
32 survivor's request, of the results of the analysis of the
33 survivor's sexual assault forensic evidence, whether the
34 analysis yielded a DNA profile, and whether the analysis
35 yielded a DNA match, either to the named alleged perpetrator

1 or to a suspect already in the federal combined DNA index
2 system. The survivor has the right to receive this information
3 through a secure and confidential message in writing from the
4 laboratory. The message must include the telephone number of
5 the laboratory so that the survivor can call to receive the
6 results.

7 9. A defendant or person accused or convicted of a crime
8 against the survivor shall have no standing to object to any
9 failure to comply with this chapter, and the failure to provide
10 a right or notice to the survivor under this chapter shall
11 not be used by a defendant to seek to have the conviction or
12 sentence reversed or set aside.

13 10. The failure of a law enforcement agency to take
14 possession of a kit or to submit that evidence for analysis
15 does not alter the authority of a law enforcement agency to
16 take possession of that evidence or to submit that evidence
17 to the laboratory, and does not alter the authority of the
18 laboratory to accept and analyze the evidence or to upload
19 the DNA profile obtained from that evidence into the federal
20 combined DNA index system.

21 11. The kit shall not be used to prosecute the survivor
22 for any misdemeanor crimes, or serve as a basis to search for
23 further evidence of any unrelated misdemeanor crimes.

24 Sec. 11. NEW SECTION. 915A.10 Kit tracking and retention.

25 1. The department of public safety, in cooperation with
26 other law enforcement agencies, shall develop a statewide kit
27 tracking system by January 1, 2020. A law enforcement agency
28 shall participate in the tracking system established pursuant
29 to this section according to the implementation schedule
30 established by the department.

31 2. The tracking system shall do all of the following:

32 a. Track the location and status of a kit throughout
33 the state, including the initial collection pursuant to an
34 examination performed by a medical provider, the receipt of
35 and storage by a law enforcement agency, the receipt of and

1 analysis by the state criminalistics laboratory or other
2 qualified laboratory, the storage, and the destruction of the
3 kit after completion of testing.

4 *b.* Allow a medical provider completing an examination using
5 a sexual assault forensic evidence kit, a law enforcement
6 agency, county attorney, the state criminalistics laboratory or
7 other qualified laboratory, and other entities with custody of
8 a kit to update and track the status and location of the kit.

9 *c.* Allow survivors of sexual assault to anonymously track or
10 receive updates regarding the status of testing of the kit.

11 *d.* Use electronic technology allowing for continuous access
12 to the tracking system.

13 3. The department of justice in cooperation with the
14 department of public safety shall submit an annual report
15 relating to the tracking system beginning January 15, 2020,
16 and every January 15, thereafter, to the general assembly, and
17 shall publish the report on the internet site of the department
18 of justice. The report shall include the following statistics
19 relating to the sexual assault forensic evidence kits from the
20 previous calendar year:

21 *a.* The total number of kits in the system statewide.

22 *b.* The total number of kits tested.

23 *c.* The number of kits added, including separate sets of data
24 by jurisdiction.

25 *d.* The total number of kits that remain untested, including
26 separate sets of data by jurisdiction.

27 **Sec. 12. NEW SECTION. 915A.11 Law enforcement agency —**
28 **duties in sexual assault cases.**

29 A law enforcement agency shall do all of the following on or
30 after January 1, 2020:

31 1. Ensure that a rapid turnaround DNA program is used in the
32 course of a sexual assault case.

33 2. Take possession of any kit obtained by a medical provider
34 involved in the case and submit it to the laboratory within
35 five days after receiving the kit.

1 3. Assign a criminal complaint number to that evidence
2 within five days after receiving the kit, if the survivor has
3 given written consent to file a criminal complaint.

4 4. Notify any other law enforcement agency involved in the
5 case that the agency has jurisdiction over the sexual assault
6 within five days of making that determination.

7 5. Take possession of a kit within five days after receiving
8 notice under subsection 4.

9 6. If a law enforcement agency does not submit a kit to
10 a laboratory within five days of obtaining a kit, the law
11 enforcement agency shall inform the survivor that the kit has
12 not been submitted to the laboratory, and the reasons for not
13 submitting the kit.

14 Sec. 13. NEW SECTION. 915A.12 Laboratory — receiving
15 sexual assault kit.

16 1. A laboratory that receives a kit on or after January 1,
17 2020, shall do the following:

18 a. Process the sexual assault forensic evidence, create DNA
19 profiles when able, and upload qualifying DNA profiles into
20 the federal DNA combined index system as soon as practically
21 possible after initially receiving the evidence, unless the
22 survivor has requested in writing that the laboratory defer
23 analysis of that evidence.

24 b. If a DNA profile is created, the laboratory shall upload
25 the profile into the federal DNA combined index system as soon
26 as practically possible after being notified about the presence
27 of DNA unless the survivor has requested the laboratory defer
28 analysis.

29 2. This section does not require a laboratory to test all
30 items of forensic evidence obtained in a kit. A laboratory
31 is considered to be in compliance with the provisions of
32 this section when representative samples of the evidence are
33 processed by the laboratory in an effort to detect the alleged
34 perpetrator.

35 3. This section does not require a DNA profile to be

1 uploaded into the federal DNA combined index system if the
2 DNA profile does not meet federal guidelines regarding the
3 uploading of DNA profiles into the federal DNA combined index
4 system.

5 4. A laboratory shall retain all sexual assault forensic
6 evidence for a minimum of ten years or until ten years after
7 the alleged survivor reaches eighteen years of age, if the
8 survivor was a minor when the alleged assault occurred.

9 Sec. 14. NEW SECTION. 915A.13 **Survivors of sexual assault**
10 **task force.**

11 1. There is hereby established a survivors of sexual assault
12 task force. The task force shall be staffed by the department
13 of justice.

14 2. The task force shall consist of the following members.

15 a. Four ex officio, nonvoting members who are members of the
16 general assembly, appointed as follows:

17 (1) One member of the senate appointed by the majority
18 leader of the senate.

19 (2) One member of the senate appointed by the minority
20 leader of the senate.

21 (3) One member of the house of representatives appointed by
22 the speaker of the house of representatives.

23 (4) One member of the house of representatives appointed by
24 the minority leader of the house of representatives.

25 b. The following voting members:

26 (1) The director of public health or the director's
27 designee.

28 (2) A survivor of sexual assault, appointed by the
29 department of justice.

30 (3) A representative of the crime victim assistance
31 division of the department of justice.

32 (4) A representative of a rape crisis center, appointed by
33 the Iowa coalition against sexual assault.

34 (5) The commissioner of the department of public safety or
35 the commissioner's designee.

1 (6) An officer appointed by the Iowa police chiefs
2 association.

3 (7) A representative of the state criminalistics
4 laboratory.

5 (8) An attorney appointed by the Iowa state bar association.

6 (9) A representative of a regents institution, appointed
7 by the board of regents, whose occupational duties include
8 the provision of direct services to victims of sexual assault
9 and whose employer is not under investigation by the federal
10 department of education for alleged violations of federal law.

11 (10) A representative of organizations that provide
12 services, education, or outreach to communities of color or
13 immigrant communities, appointed by the Iowa civil rights
14 commission.

15 (11) A representative of an organization that provides
16 services, education, or outreach to lesbian, gay, bisexual, and
17 transgender individuals, appointed by the Iowa civil rights
18 commission.

19 (12) A certified sexual assault nurse examiner, appointed
20 by the board of nursing.

21 3. The task force shall study nationally recognized best
22 practices and make recommendations regarding the following:

23 *a.* The development and implementation of an effective
24 mechanism for submitting, tracking, and investigating
25 complaints regarding the handling of, and responses to, sexual
26 assault-related crimes by any agency or organization involved
27 in the handling or response.

28 *b.* The necessity of expanding the right of a survivor to
29 a counselor as described in section 915A.5 beyond the medical
30 provider and law enforcement interview settings.

31 *c.* The ongoing evaluation of the implementation of the
32 rights under this chapter, including the scope of and need for
33 such rights, and how to best accomplish implementation of the
34 rights.

35 *d.* Whether the task force should continue its work after the

1 issuance of a report pursuant to subsection 6.

2 4. a. The task force shall collect data regarding reports
3 of sexual assaults, including arrests, prosecution rates,
4 access to sexual assault victim services, and any other data
5 important for its deliberations and recommendations. If
6 such data does not exist, the task force shall encourage its
7 creation and maintenance by the department of justice.

8 b. The task force may retain the services of independent
9 experts who may do the following:

10 (1) Request files and records from any officer, but all such
11 information shall be kept strictly confidential and reported on
12 only as aggregated or anonymized data.

13 (2) Conduct confidential interviews with officers, medical
14 providers, counselors, and others with direct knowledge of the
15 process of collecting evidence relating to a sexual assault.

16 (3) Provide advice and recommendations to the task force,
17 within the bounds of confidentiality.

18 5. The task force shall collect feedback from stakeholders,
19 practitioners, and leadership throughout the state and
20 local law enforcement, victim services, forensic science
21 practitioners, and health care communities to develop future
22 best practices or clinical guidelines regarding the care and
23 treatment of a survivor.

24 6. a. By January 1, 2020, and every five years thereafter,
25 the task force shall produce a report that includes findings
26 and recommendations.

27 b. The task force shall submit the report to the general
28 assembly, the governor, the department of justice, the
29 commissioner of public safety, and to victims' rights
30 organizations and rape crisis centers as determined by the task
31 force.

32 7. The task force shall convene every five years until it
33 is determined that all rights described in this chapter have
34 been effectively implemented. A determination of effective
35 implementation of the rights described in this chapter shall be

1 made by a majority vote of the members of the task force prior
2 to adopting the report under subsection 6.

3 8. Legislative members of the task force shall not receive
4 a per diem and shall not receive reimbursement for necessary
5 travel and actual expenses for performance of their duties
6 as members of the task force. Notwithstanding section
7 7E.6, nonlegislative members shall not receive a per diem or
8 reimbursement for travel and actual expenses for performance of
9 their duties as members of the task force.

10 Sec. 15. REPEAL. Section 709.22, Code 2019, is repealed.

11 DIVISION II

12 APPROPRIATIONS

13 Sec. 16. SURVIVORS OF SEXUAL ASSAULT TASK FORCE —
14 APPROPRIATIONS. There is appropriated from the general fund
15 of the state to the department of justice for the following
16 fiscal years, the following amounts, or so much thereof as is
17 necessary, to be used for the purposes designated:

18 For development of a survivor notification document,
19 maintaining the survivors of sexual assault task force created
20 pursuant to this Act, and other related matters:

21	1. FY 2019-2020:		
22	.....	\$	5,000
23	2. FY 2020-2021:		
24	.....	\$	5,000
25	3. FY 2021-2022:		
26	.....	\$	5,000
27	4. FY 2022-2023:		
28	.....	\$	5,000
29	5. FY 2023-2024:		
30	.....	\$	5,000

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill establishes rights for sexual assault survivors.
35 The rights established in the bill are in addition to the crime

1 victim rights established in Code chapter 915.

2 DEFINITIONS. The bill defines "sexual assault" to mean
3 sexual abuse as defined in Code section 709.1 or incest as
4 defined in Code section 726.2, or any other sexual offense by
5 which a victim has allegedly had sufficient contact with an
6 alleged offender to be deemed a significant exposure of bodily
7 fluids.

8 The bill defines "survivor" to mean an alleged victim of
9 a sexual assault. "Survivor" includes the parent, guardian,
10 spouse, or any other person related to the survivor by
11 consanguinity or affinity to the second degree, or any other
12 lawful representative of the survivor, if the survivor is
13 incompetent, or deceased; unless such person is the alleged
14 perpetrator.

15 The bill defines "kit" to mean a sexual assault forensic
16 evidence kit containing a human biological specimen collected
17 by a medical provider during a forensic medical evidentiary
18 examination from an alleged sexual assault survivor.

19 SURVIVOR RIGHTS. The bill provides that a survivor has
20 the right to be free from intimidation, harassment, and
21 abuse. During the course of any judicial proceeding, a court
22 shall make reasonable efforts to provide the survivor and
23 the survivor's family members, friends, and witnesses with a
24 secure waiting area or room that is separate from the waiting
25 area for the alleged perpetrator and the alleged perpetrator's
26 family members, friends, witnesses, and attorneys; and separate
27 from the county attorney's office. The bill provides that a
28 survivor has the right to be treated with fairness and respect
29 for the survivor's privacy and dignity. During the course of
30 any judicial proceeding, a court shall, upon the request of the
31 survivor, clear the courtroom of all persons when the survivor
32 is testifying regarding the case in any civil or criminal
33 trial, except that parties to the case and their immediate
34 families or guardians, attorneys and their secretaries,
35 officers of the court, jurors, members of the media, court

1 reporters, and, at the request of the survivor, witnesses
2 designated by the county attorney may remain in the courtroom.

3 The bill provides that the survivor shall not be required to
4 submit to a polygraph examination as a prerequisite to filing
5 an accusatory pleading.

6 The bill provides that upon request of a survivor, a law
7 enforcement agency shall inform the survivor of the status of
8 analyzing the kit evidence or other crime scene evidence from
9 the survivor's case. The law enforcement agency may, at its
10 discretion, require that the survivor's request be in writing.
11 The bill further provides that the law enforcement agency shall
12 respond to the victim's request with either an oral or written
13 communication, or by electronic mail, if an electronic mail
14 address is available.

15 COUNSELOR — RIGHTS. The bill provides that a survivor
16 has the right to consult with a counselor during any medical
17 evidentiary examination, or during any interview about a sexual
18 assault with a peace officer, county attorney, or defense
19 attorney. A survivor retains this right even if the survivor
20 has waived the right in a previous examination or interview.

21 The bill provides that communications between a survivor
22 and a counselor are confidential and privileged, including
23 information disclosed in the presence of any third persons
24 conducting a medical evidentiary examination or a law
25 enforcement interview.

26 The bill provides that a survivor retains the right to have a
27 counselor present during all stages of any medical examination,
28 investigation, or other interaction with representatives from
29 the legal or criminal justice systems.

30 SURVIVOR NOTIFICATION DOCUMENT. The bill requires the
31 department of justice to develop a survivor notification
32 document to be distributed by a peace officer and a medical
33 provider upon initial contact with a survivor. The survivor
34 notification document shall be in clear language that is
35 comprehensible to a person proficient in English at the fifth

1 grade level, accessible to persons with visual disabilities,
2 and available in all major languages of the state.

3 PEACE OFFICER OR COUNTY ATTORNEY INTERACTION. The bill
4 provides that upon initial interaction with a survivor a
5 peace officer or county attorney shall inform the survivor
6 of the following rights: to receive a survivor notification
7 document if the survivor has not already received a survivor
8 notification document or does not remember receiving a survivor
9 notification document; to consult with a counselor during any
10 interview by a peace officer, county attorney, or defense
11 attorney, unless no counselor can be summoned in a reasonably
12 timely manner; and to be interviewed by a peace officer or
13 county attorney of the same gender or opposite gender as
14 the survivor, unless no such officer or county attorney is
15 reasonably available.

16 The bill also provides that a peace officer shall, upon
17 written request by a survivor, furnish a free, complete, and
18 unaltered copy of all law enforcement reports concerning the
19 case, at the time the investigation has been closed by the law
20 enforcement agency.

21 MEDICAL PROVIDER INTERACTION. The bill provides that a
22 medical provider shall not charge a survivor for the cost of
23 the medical evidentiary examination portion of the examination
24 either directly or indirectly. A medical provider shall
25 provide contraception to a female survivor, if the survivor so
26 chooses, within four hours of the medical examination, and at
27 no cost to the survivor.

28 Prior to a medical provider commencing a medical evidentiary
29 examination of a survivor, the bill provides that a survivor
30 shall be informed of the survivor's rights by the medical
31 provider. The survivor shall be entitled to the following: to
32 receive a survivor notification document; to consult with a
33 counselor before the commencement of the medical evidentiary
34 examination, unless no counselor can be summoned in a
35 reasonably timely manner; to know the ramifications of delaying

1 the medical evidentiary examination if a counselor is unable
2 to be summoned in a timely manner; and to shower, at no cost,
3 unless showering facilities are not available after the medical
4 evidentiary examination.

5 The bill provides that a medical provider, upon conducting a
6 medical evidentiary examination, shall collect the evidence in
7 a sexual assault forensic evidence kit. The bill requires the
8 following: the kit shall be delivered to the law enforcement
9 agency believed to have jurisdiction over the sexual assault
10 within 24 hours of collecting any sexual assault forensic
11 evidence; the law enforcement agency with jurisdiction over
12 the assault shall deliver the kit to the laboratory as soon
13 as possible or within five days of receiving the kit, unless
14 the survivor requests in writing for the laboratory to defer
15 analysis of the evidence; the laboratory shall retain the kit
16 for a minimum of 10 years before it is destroyed, or until
17 the survivor reaches 28 years of age if the survivor was a
18 minor when the assault occurred; the laboratory that receives a
19 kit shall analyze that evidence and upload any available DNA
20 profiles into the federal combined DNA indexed system, unless
21 the survivor has requested in writing for the laboratory to
22 defer analysis of that evidence; if a law enforcement agency
23 or laboratory intends to destroy or otherwise dispose of a kit
24 before the law enforcement agency shall notify the survivor
25 in writing before that evidence is destroyed; and a survivor
26 has the right to be informed, upon the survivor's request, of
27 the results of the analysis of the survivor's sexual assault
28 forensic evidence.

29 The bill provides that a defendant or person accused
30 or convicted of a crime against the survivor shall have
31 no standing to object to any failure to comply with the
32 requirements of the bill. The bill provides that the kit shall
33 not be used to prosecute a survivor for any misdemeanor crimes,
34 or serve as a basis to search for further evidence of any
35 unrelated misdemeanor crimes.

1 The bill provides that failure to comply with the
2 requirements under the bill does not constitute grounds in any
3 civil or criminal proceeding for challenging the validity of a
4 database match or of any database information, and any evidence
5 of that DNA record shall not be excluded by a court on those
6 grounds.

7 The bill provides that the kit shall not be used to prosecute
8 the survivor for any misdemeanor crimes.

9 KIT TRACKING SYSTEM. The bill requires the tracking system
10 to do the following: track the location and status of a kit
11 throughout the state, including the initial collection in
12 examinations performed by a medical provider, the receipt and
13 storage at a law enforcement agency, the receipt and analysis
14 at the laboratory or other qualified laboratory, the storage,
15 and the destruction after completion of testing. The tracking
16 system established by the bill shall also allow the entities in
17 the custody of a sexual assault forensic evidence kit to update
18 and track the status and location of the kit, allow survivors
19 to anonymously track or receive updates regarding the status of
20 the testing of the kit, and use electronic technology allowing
21 for continuous access to the tracking system.

22 The bill provides that the department of justice, in
23 cooperation with the department of public safety, shall submit
24 an annual report relating to the tracking system beginning
25 January 15, 2020, and every January 15, thereafter, to the
26 general assembly, and shall publish the report on the internet
27 site of the department of justice. The report shall include
28 statistics from the previous calendar year including: the
29 total number of kits in the system statewide; the total number
30 of kits tested; the number of kits added, including separate
31 sets of data by jurisdiction; and the total number of kits
32 that remain untested, including separate sets of data by
33 jurisdiction.

34 LAW ENFORCEMENT AGENCY — SEXUAL ASSAULTS AFTER JANUARY 1,
35 2020. The bill provides that a law enforcement agency shall

1 do the following on or after January 1, 2020: ensure that
2 a rapid turnaround DNA program is in place; take possession
3 of the evidence from the medical provider and submit it to
4 the laboratory as soon as possible or within five days after
5 receiving the kit; assign a criminal complaint number to
6 the evidence within five days after receiving the kit if
7 the survivor has given written consent to file a criminal
8 complaint; notify another law enforcement agency that the
9 agency has jurisdiction over the sexual assault within five
10 days of making that determination; and notify the survivor
11 within five days of receiving a kit that the kit has not been
12 submitted to the laboratory and the reasons for not submitting
13 the kit.

14 STATE CRIMINALISTICS LABORATORY — RECEIVING SEXUAL ASSAULT
15 KIT AFTER JANUARY 1, 2020. A laboratory that receives a kit
16 on or after January 1, 2020, shall do the following: process
17 sexual assault forensic evidence, and if a DNA profile is
18 created, the laboratory shall upload the profile into the
19 federal DNA combined index system as soon as practically
20 possible after being notified about the presence of DNA, unless
21 the survivor has requested the laboratory defer analysis.

22 TASK FORCE. The bill establishes a survivors of sexual
23 assault task force. The task force shall be staffed by the
24 department of justice. The bill provides that the task force
25 shall consist of four ex officio, nonvoting legislative members
26 and 12 voting members from various stakeholder agencies and
27 organizations.

28 The task force shall study nationally recognized best
29 practices and make recommendations regarding the following:
30 the development and implementation of an effective
31 mechanism for submitting, tracking, and investigating
32 complaints regarding the handling of and response to sexual
33 assault-related crimes by any agency or organization involved
34 in the handling or response; the necessity of expanding the
35 right to a counselor beyond the medical provider and law

1 enforcement interview settings; the ongoing evaluation of the
2 implementation of the survivor rights enumerated under the
3 bill, including the scope and need for such rights, and how
4 to best accomplish implementing the rights; and whether the
5 task force should continue its work after the issuance of the
6 report.

7 The bill provides that the task force shall collect
8 data regarding reporting of a sexual assault, including
9 arrests, prosecution rates, access to sexual assault victims
10 services, and any other data important for its deliberations
11 and recommendations. If such data does not exist, the bill
12 requires that the task force shall encourage its creation and
13 maintenance by the department of justice.

14 By January 1, 2020, and every five years thereafter, the
15 bill provides that the task force shall produce a report that
16 includes findings and recommendations. The bill requires that
17 the task force submit the report to the general assembly, the
18 governor, the department of justice, the commissioner of public
19 safety, and to victims' rights organizations and rape crisis
20 centers as determined by the task force. The bill requires the
21 task force to convene every five years until it is determined
22 that all rights described within the bill have been effectively
23 implemented. A determination of effective implementation of
24 the rights described in the bill and whether to reconvene the
25 task force shall be made by a majority vote of the current
26 members of the task force prior to adopting the final report.

27 APPROPRIATIONS. The bill appropriates \$5,000 from the
28 general fund of the state to the department of justice for
29 each of the next five fiscal years, for creating the survivor
30 notification document and maintaining the sexual assault
31 survivors task force and other related matters.